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20 May 2013

Dr Malcolm Roberts
Chairman
Queensland Competition Authority
GPO Box 2257
Brisbane QLD 4001

Dear Dr Roberts,

Aurizon Network's DAAU on transitional tariffs to apply from 1 July 2013

Thank you for your letter on 12 April 2013 encouraging discussion between the participants who attended the workshop hosted by the Queensland Competition Authority (**the Authority**) on transitional reference tariffs.

I welcome the opportunity to respond to the Draft Amending Access Undertaking lodged by Aurizon Network on 9 May 2013 (**Extension DAAU**). The Extension DAAU seeks to extend the expiry of the 2010 Access Undertaking to 30 June 2014 and apply transitional tariffs for FY2013-14. These transitional tariffs will be substituted by the reference tariffs approved in Aurizon Network's 2013 Draft Access Undertaking (**2013DAU**).

I am writing to raise an issue with respect to the proposed "roll forward" of the 2013 approved volume forecasts for the purpose of determining transitional tariffs for FY2013-14.

Approved system forecasts serve the following purposes:

- First, they provide the basis for determining the AT3 and AT4 tariff components and the consequential variations to system premiums and rebates;

- Second, the forecast gross tonne kilometres also establish the trigger for the calculation of take or pay.

Because of the role of approved system forecasts in 'triggering' take or pay liability, it is essential that any forecast used in the Extension DAAU be a robust estimate of expected system throughput.

This is particularly relevant to access holders that have entered into 2001 Access Undertaking (UT1) agreements. The liability of UT1 access holders to take or pay is "uncapped" due to the commercial and regulatory framework in place at the time these agreements were executed. In practical terms, this means that UT1 access holders are substantially more exposed to take or pay when the network underperforms to forecast than other access holders. Simply, where take or pay is triggered in a system due to actual volume differing from forecasts, it is UT1 access holders that disproportionately bear the take or pay costs relative to other access holders.

Therefore, for UT1 access holders in particular, it is essential that the QCA only approve a system forecast for take or pay purposes after a thorough assessment of the forecast throughput. The Extension DAAU does not undertake such an exercise, but rather, as noted, "rolls forward" last years forecast. Aurizon does not support this approach.

It appears from the Extension DAAU that the significance of these concerns will depend on whether the approval of the 2013DAU occurs prior to the calculation of take or pay for FY2013-14.

Where the 2013DAU is approved prior to issuing the invoice for the last billing period of FY2013-14 (i.e. in July 2014) the proposed volume forecasts will not be an issue, as the system forecasts that will be used for calculating take or pay liabilities will be those approved by the QCA in the 2013DAU (and not those approved in the Extension DAAU).

In contrast, if the 2013DAU is not approved before the last billing period of FY2013-14, the Extension DAAU contemplates collecting take or pay revenue if the system forecasts have not been achieved. The balance of any revenue shortfall is intended to be collected through adjustment charges.

However, the Extension DAAU is unclear, following approval of a subsequent DAAU or the 2013DAU, in relation to the following matters:

- Will UT1 take or pay be capped to achieve only the transitional allowable revenue?

- Once the 2013DAU is approved, will any take or pay amounts that have been collected in FY2013-14 need to be recalculated following retrospective variation to reference tariffs and system allowable revenues, and, if so, how will that be achieved?

In any case, Aurizon believes that any retrospective adjustment of take or pay liabilities will be complicated, given that those liabilities are unlikely to be proportional between the different types of access agreements. This means that any recalculation of take or pay will involve amending the allocation of take or pay between different classes of access holders. Similarly, as noted above, the retrospective variation of take or pay liabilities will be further complicated through the subsequent variations in system premiums and rebates.

Given these complexities, Aurizon submits that the Authority take one of two approaches.

First, if the Authority is minded to accept a “rolled forward” volume forecast, it simplify arrangements by maximising the prospect that Aurizon Network’s transitional revenue is collected solely from access charges and not take or pay. This could be achieved by either:

- excluding the system forecasts from the Extension DAAU, and simply pricing at the level that Aurizon Network and the Queensland Resources Council have proposed; or

- pricing on the basis of the 186 million tonne forecast but applying an arbitrary reduction in the forecast of at least 10% to minimise the likelihood that take or pay will trigger.

Second, alternatively, if the Authority considers that the transitional arrangements should not remove take or pay exposure, then the system forecasts should be established with the same rigorous scrutiny that would occur had the reference tariffs been amended through the usual annual tariff review.

In this respect, it is notable that Aurizon Network’s submission says:

> *‘Aurizon Network notes that the QCA is undertaking its own review of System Forecasts, and would like to confirm that the System Forecasts will be aligned to those recommended by the QCA as part of its Draft Decision on the DAAU’*

Aurizon supports the Authority procuring its own view on system forecasts, and if those forecasts differ from those in the Extension DAAU, requiring the DAAU to be amended.

In order to ensure that the interests of UT1 access holders are legitimately addressed, and substantial contractual and administrative complexity avoided, Aurizon believes that the approved system forecasts applicable to any transitional tariffs should be at the lower end of the Authority’s range. Further, Aurizon considers that the QCA should assess any variance between Aurizon Network’s proposed forecast, and its own expert’s forecast, at the system level rather than in aggregate (as take or pay triggers on a system, rather than a whole of network basis).

I would be happy to meet with you to discuss any of the above. If you have any queries in relation to this letter, please contact Dean Gannaway on [redacted].

[redacted]

Mr. Andrew MacDonald
Senior Vice President
Commercial and Marketing